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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

PREMIER HOLDING CORPORATION,
et al.,

Defendants.

Case No. 8:18-cv-00813-CJC-KES

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
RESPONSE TO MOTION BY
ANTHONY DEMINT TO
WITHDRAW AS COUNSEL TO
DEFENDANTS PREMIER
HOLDING CORP. AND RANDALL
LETCAVAGE**

Date: February 25, 2019
Time: 1:30 p.m.
Place: Courtroom 7C
Judge: Hon. Cormac J. Carney

Plaintiff Securities and Exchange Commission ("SEC") does not oppose the motion of Anthony DeMint, Esq., to withdraw as counsel for Defendants Premier Holding Corporation ("Premier") and Randall Letcavage ("Letcavage") provided: (a) new counsel first enters an appearance on behalf of Premier and Letcavage, and (b) regardless of who serves as counsel, there are assurances that existing discovery obligations will be honored, including the holding of depositions scheduled for the week of February 25, 2019.

As Mr. DeMint concedes in his Declaration of January 18, 2019 [Docket Entry 81-1], his clients have repeatedly failed to demonstrate “responsiveness and compliance” (DeMint Decl. ¶ 8.) This failure has extended to discovery; forcing the SEC to move before Magistrate Scott to compel responses to multiple outstanding disclosure requests, ultimately resulting in a Court Order requiring Premier and Letcavage to provide fuller responses, among other relief. *See* Docket Entry 78 (January 8, 2019 Court Order Granting SEC’s Discovery Motion). Unfortunately, although that Order required Premier and Letcavage to provide additional responses by January 28, 2019, they have failed to fully comply. While the SEC granted Premier and Letcavage additional time to complete their obligations before making any additional motion to compel or for sanctions, that agreement was reached with Mr. Darryl Sheetz¹ (Mr. DeMint did not respond to either emails or phone calls). Mr. Sheetz has advised the SEC that he will not be operating as substitute counsel upon Mr. DeMint’s withdrawal. Consequently, the SEC is concerned that the substitution of counsel is yet another effort to delay complying with the SEC’s outstanding discovery demands—to date, Premier and Letcavage have now had three different counsels representing them since the commencement of the investigation and, among other things, have used the change of counsel to delay responding to requests. Thus,

¹ Mr. Sheetz has entered an appearance of behalf of the defendants in this Court and had represented these defendants during much of the investigation underlying the current litigation.

the SEC does not object to Mr. DeMint's withdrawal provided that there are assurances that substitute counsel will be in place and will comply with outstanding discovery requests, and that Mr. DeMint's withdrawal will not be used as an excuse for additional delays.

Moreover, in their partial January 28, 2019 responses Premier and Letcavage changed – yet again – the identity of their Fed. R.Civ.Proc. 30(b)(6) witness, months after that deposition was first scheduled (and cancelled by defendants, repeatedly). Mr. Sheetz has advised the SEC that Letcavage will serve as the 30(b)(6) witness for both defendants during the week of February 25, 2019. Before any withdrawal is granted, defendants should confirm that this deposition (and any others that might be scheduled that same week) will take place, either with substitute counsel, Mr. DeMint or Mr. Sheetz, or otherwise, and that any substitution not be deemed an acceptable excuse for additional delay.

Respectfully submitted,

Dated: February 4, 2019

/s/ Howard A. Fischer

Howard A. Fischer
Bennett Ellenbogen
Attorneys for Plaintiff
Securities and Exchange Commission

PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,
200 Vesey Street, New York, NY 10281
Telephone No. (212) 336-0062.

On February 4, 2019, I caused to be served the document entitled **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S RESPONSE TO MOTION BY ANTHONY DEMINT TO WITHDRAW AS COUNSEL TO DEFENDANTS PREMIER HOLDING CORP. AND RANDALL LETCAVAGE** on all the parties to this action addressed as stated on the attached service list:

☐ **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

☐ **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

☐ **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

☐ **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

☒ **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

☒ **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

☒ **E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

☐ **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: February 4, 2019

/s/ Howard Fischer

Howard Fischer

SEC v. Premier Holding et al.
United States District Court—Central District of California
Case No. 8:18-cv-00813-CJC-KES

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